

## **SECTION 18 - NONCONFORMITIES**

1. A single family dwelling may be erected in any residential district upon a lot that does not meet the minimum lot size requirements stated herein, provided that:
  - a. The lot is shown, by a recorded plat, to have been created before the effective date of this regulation and was in compliance with the size requirement of the zoning district in which it was located at the time the plat was recorded, or
  - b. The lot, tract or parcel is shown, by a recorded deed or affidavit of equitable interest, to have been transferred before the effective date of this regulation or subsequent applicable regulation and was in compliance with the size requirement of the zoning district in which it was located at the time the tract was originally established.
  - c. The deficiency in lot size is due exclusively to the condemnation of a portion thereof by any governmental agency, and
  - d. All other applicable requirements within the zoning district are met and that a minimum of 8 feet is provided for side yards, and
  - e. All requirements of the County Sanitary Code are met.
2. Buildings for permitted uses within districts other than residential districts may be created upon a lot that does not meet the minimum size requirements stated herein provided that conditions stated in 1-a, 1-b, 1-c and 1-e above are met and further provided that:
  - a. All other applicable requirements within the zoning district are met.
  - b. AG zoned lots of twenty (20) acres or larger do not qualify for construction of a residence unless they are determined to be exempt for agricultural use as outlined elsewhere in these regulations or the lot was created by deed between the enactment of the 20-acre minimum lot size on July 10, 1980 and the effective date of these regulations;
  - c. AG zoned lots of less than twenty (20) acres may qualify for construction of a residence if they are determined to have been legally established under all previous zoning regulations, were not created as a result of an agricultural exemption, and meet all requirements listed within this nonconformities section.
3. Any structure in existence prior to the effective date of this regulation, for a use which is permitted in the zoning district in which it is located, but does not comply with the applicable requirements, may continue in otherwise lawful use provided that:

- a. Any enlargement, maintenance or repair of the structure does not create any additional nonconformity, or increase the degree of existing nonconformity, of all or a part of the structure.
- b. In the event that such a structure is damaged, by any means, to the extent of more than 50% of its structural value, it shall be restored only in a manner which obtains conformity with the applicable regulations of the district; except as specifically exempted in paragraphs 1 or 2 above.
- c. Notwithstanding the above, any structure that is damaged to any extent or totally destroyed, may be repaired, restored, rebuilt or replaced in the following two situations:

#### SITUATION 1

- (1) The nonconformity was created by Riley County acquiring a portion of the property upon which the structure is located; and
- (2) The repair, restoration or rebuilding of the structure does not create any additional nonconformity or increase the degree of nonconformity of the structure as it originally existed; and
- (3) A building permit is obtained (if required) and repair, restoration or rebuilding is actually begun within one (1) year after the date of such damage or destruction.

#### SITUATION 2

- (1) The structure that was damaged or destroyed was a residence in the AG District that was in existence prior to the adoption of the AG District regulations; and
- (2) The residence will be repaired, restored, rebuilt or replaced on the same location or approximate same location where it existed prior to the damage or destruction; and
- (3) The residence was occupied within a year of its damage or destruction; and
- (4) If the residence is determined to be a non-agricultural residence in accordance with the procedure outlined within the AG District, the owner shall file an Agricultural Protection Easement in accordance with Section 21A of the Riley County Zoning Regulations; and
- (5) The residence will be rebuilt or replaced in compliance with all of the setback requirements of the AG District.

Such a structure shall not be moved to any other location on the same or any other lot unless full conformity to all applicable regulations is obtained after such relocations.

4. Any structure or land use in existence, or for which a building permit has been issued, prior to the effective date of this regulation, for a use that does not conform to those permitted in the district in which it is located shall be designated as a lawful nonconforming use and may continue in otherwise lawful use provided that:
  - a. In no case shall such a structure or use be extended or enlarged so as to increase the area, extent or intensity of the nonconformity.
  - b. Repairs, maintenance or reconstruction shall be limited to those items necessary to keep the structure in a sound condition.
  - c. Any remodeling or reconstruction beyond that work included above shall be done only to accommodate a use permitted in the district in which it is located and shall result in a structure and use which conform to all requirements therein.
  - d. In the event that such a structure is damaged, by any means, to an extent of more than 50% of its structural value, it shall not be restored except to accommodate a use permitted in the district in which it is located and such restoration shall result in a structure and use which conform to all requirements herein.
  - e. Such structure or use shall not be moved to any other location on the same or any other lot unless full conformity to all applicable regulations is obtained after such relocation.
5. When a lawful nonconforming use of a structure or any part of a structure, or lawful nonconforming use of any facility or part of a facility or lawful nonconforming use of any land is discontinued, for any reason, for a period of twelve consecutive months, such nonconforming use shall not be re-established or resumed and any subsequent use shall conform to all of the requirements of the district in which it is located.
6. No lawful nonconforming use of any structure or facility or land shall be changed to any other use except one which is permitted in the district in which that use is located; and after such a change is made, a return to the nonconforming use shall not be permitted.